



4164-01-P

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Food and Drug Administration**

**[Docket No. FDA-2011-D-0108]**

### **Prescription Drug User Fee Act Waivers, Reductions, and Refunds for Drug and Biological Products; Draft Guidance for Industry; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled "Prescription Drug Act User Fee Waivers, Reductions, and Refunds for Drug and Biological Products." This revised draft guidance provides recommendations to applicants planning to request a waiver or reduction in user fees. This draft guidance is a revision of the guidance for industry entitled "User Fee Waivers, Reductions, and Refunds for Drug and Biological Products," issued in September 2011.

**DATES:** Although you can comment on any draft guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** You may submit comments as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

*Instructions:* All submissions received must include the Docket No. FDA-2011-D-0108 for "Prescription Drug Act User Fee Waivers, Reductions, and Refunds for Drug and Biological

Products." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions--To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the

prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002 or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, rm. 3128, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist the office in processing your requests. See the SUPPLEMENTARY INFORMATION section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Sungjoon "Alvin" Chi, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., rm.2185, Silver Spring, MD 20993, 301-796-7900, [CDERCollections@fda.hhs.gov](mailto:CDERCollections@fda.hhs.gov); or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, rm. 7301, Silver Spring, MD 20993-0002, 240-402-7911.

**SUPPLEMENTARY INFORMATION:**

I. Background

FDA is announcing the availability of a draft guidance for industry entitled "Prescription Drug User Fee Waivers, Reductions, and Refunds for Drug and Biological Products." This draft guidance provides recommendations to applicants regarding requests for waivers, reductions, or refunds of user fees assessed under sections 735 and 736 (21 U.S.C. 379g and 379h) of the Federal Food, Drug, and Cosmetic (FD&C) Act. This revised draft guidance describes the types of waivers, reductions, and refunds permitted under the user fee provisions of the FD&C Act and

the procedures for submitting requests for waivers, reductions, refunds, and requests for reconsiderations or appeals. The revised draft guidance also provides additional clarification on certain issues such as user fee exemptions for orphan drugs and FDA's current thinking on considerations relevant to eligibility for user fee waivers, reductions, and refunds under the applicable statutory provisions.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on "Prescription Drug User Fee Waivers, Reductions, and Refunds for Drug and Biological Products." It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This draft guidance is not subject to Executive Order 12866.

## II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (44 U.S.C. 3501-3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.

The information collection of this draft guidance has been submitted for OMB renewal of approval under OMB control number 0910-0693. In addition, the collection of information associated with Form FDA 3397 has been previously approved under OMB control number 0910-0297. Collection of information associated with new drug application or biologics license applications have been previously approved under OMB control numbers 0910-0001 and 0910-0338, respectively. See section X of the draft guidance document.

### III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either

<https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>,

<https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>  
or <https://www.regulations.gov>.

Dated: June 14, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018-13295 Filed: 6/20/2018 8:45 am; Publication Date: 6/21/2018]